

VERMONT ENVIRONMENTAL BOARD
10 V.S.A. §§ 6001-6092

RE: Hector LeClair d/b/a Forestdale Heights
Land Use Permit Application #4C0329-17-EB
Docket #711

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

I. SUMMARY OF DECISION

In this decision, the Environmental Board (“Board”) concludes that the application of Hector LeClair d/b/a Forestdale Heights (“Applicant”) for a Land Use Permit pursuant to 10 V.S.A. §§ 6001-6092 (“Act 250”) complies with 10 V.S.A. § 6086(a)(S) (aesthetics). Accordingly, the Board grants application #4C0329-17-EB.

II. BACKGROUND

On June 5, 1998, the District #4 Environmental Commission (“Commission”) issued Land Use Permit #4C0329-17 and its supporting Findings of Fact, Conclusions of Law, and Order (“Permit”). The Permit authorizes the Applicant to construct, operate, and maintain a 2,300 foot road and associated utilities, including municipal sewer, water, and gas mains, telephone service, electricity, and storm water drainage structures (collectively, the “Project”). The Project site is located off Allen Martin Drive in the Town of Essex, Vermont.

On July 6, 1998, Gavin D. Wright and Timothy Green (“Appellants”) filed an appeal with the Board from the Permit pursuant to 10 V.S.A. § 6089(a) and Environmental Board Rules (“EBR”) 6 and 40. The Appellants contend that the Commission erred with respect to 10 V.S.A. § 6086(a)(8) (aesthetics) (“Criterion 8”) and (10) (local or regional plan) (“Criterion 10”). The Appellants also contend that the Commission erred by denying party status to Mr. Wright and Mr. Green under Criteria 8 and 10.

On August 6, 1998, Board Chair Marcy Harding convened a prehearing conference in Montpelier, Vermont.

On August 7, 1998, Chair Harding issued a Prehearing Conference Report and Order (“Prehearing Order”) which is incorporated herein by reference. The Prehearing Order set forth, among other things, a schedule of dates for the filing of prefiled evidence, the second prehearing conference, the site visit, and the hearing. The Prehearing Order stated that it was binding on all parties unless a written objection to it was filed on or before August 18, 1998. None of the parties filed an objection to the Prehearing Order.

On August 7, 1998, the Appellants filed a Petition for Party Status and an attached

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exhibit, requesting party status under Criteria 8 and 10.

On August 19, 1998, the Applicant filed its Opposition to Petitioners' Request for Party Status.

On September 8, 1998, the Board deliberated on the preliminary issue of party status in this matter.

On September 13, 1998, the Board issued a Memorandum of Decision, granting party status to the Appellants under Criterion 8 and denying party status to the Appellants under Criterion 10.

On October 16, 1998, Hector LeClair filed a Motion to Dismiss.

On November 3, 1998, the Appellants filed a Memorandum Responding to Hector LeClair's Motion to Dismiss.

On November 5, 1998, Chair Harding issued a Scheduling Order, allowing the parties to present oral argument on the Motion to Dismiss at the beginning of the Panel hearing on December 15, 1998. The Scheduling Order states that the Panel will deliberate and rule on the Motion to Dismiss and, if necessary, reconvene the hearing to consider the substantive issue raised by the Appellants.

The parties filed prefiled testimony, lists of witnesses and exhibits, proposed findings of fact and conclusions of law, and evidentiary objections during October and November, 1998.

On December 11, 1998, Chair Harding convened a second prehearing conference by telephone.

On December 15, 1998, a Panel of the Board convened a hearing and site visit in the Town of Essex ("Town") with the following parties participating: the Applicant by Matthew Daly, Esq. and the Appellants by Jon Anderson, Esq. After hearing oral argument on the Applicant's Motion to Dismiss, the Panel conducted a deliberative session. The Panel subsequently orally informed the parties that the Applicant's Motion to Dismiss was denied. The Panel then ruled on evidentiary objections, heard opening statements, and conducted a site visit. After the site visit, the Panel placed its site visit observations on the record and gave the parties an opportunity to place their own site visit observations on the record. The Panel then heard testimony and closing arguments from the parties.

The Panel conducted deliberative sessions on December 15 and 30, 1998 and January 26, 1999.

Based upon a thorough review of the record and related argument, the Panel issued a proposed decision on January 26, 1999 which was sent to the parties. The parties were allowed to file written objections and request oral argument before the Board on or before February 10, 1999. No party filed written objections or requested oral argument.

On February 24, 1999, the Board convened a deliberation concerning this matter. Following a review of the proposed decision and the evidence and arguments presented, the Board declared the record complete and adjourned. This matter is now ready for final decision. To the extent any proposed findings of fact and conclusions of law are included below, they are granted; otherwise, they are denied. See Secretary, Agency of Natural Resources v. Upper Valley Regional Landfill Corporation, No. 96-369, slip op. at 13 (Vt. Nov. 7, 1997); Petition of Village of Hardwick Electric Department, 143 Vt. 437,445 (1983).

III. ISSUES

- A. Whether to grant the Applicant's Motion to Dismiss.
- B. If the Panel decides not to grant the Motion to Dismiss, whether, pursuant to 10 V.S.A. § 6086(a)(8), the Project will have an adverse effect on aesthetics.

IV. FINDINGS OF FACT

1. The Project is a 2,300 foot road and associated utilities, including municipal sewer, water, and gas mains, telephone service, electricity, and storm water drainage structures.
 2. The Project is located on a 72 acre tract known as "Lot C" of the Saxon Hill Industrial Park ("Project Tract"). The Applicant owns the Project Tract.
 3. The Saxon Hill Industrial Park consists of approximately 750 acres of land located in the Town of Essex. Several industrial and office buildings are located within the Saxon Hill Industrial Park, including IBM.
 4. Allen Martin Drive provides access to the Saxon Hill Industrial Park.
 5. The Allen Martin Drive area is a suburban setting with a mixture of industrial, office
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and residential uses.

6. The Project road will intersect with Allen Martin Drive. The Project road will provide access to the Project Tract only; it will end in a cul-de-sac on the Project Tract.
7. The Project Tract is presently wooded except for a wetland in the northeast corner and a cleared trail around the perimeter of the Project Tract. Additionally, the Applicant has cut all of the trees in the swath (2,300 feet long and approximately 80 feet wide) where the Project road will be located.
8. Following construction, the Project road entrance will be visible from Allen Martin Drive.
9. The Applicant does not know the specific use of the Project road at this time. The Applicant has no concrete plans to subdivide the Project Tract or construct buildings on the Project Tract. Because the Project Tract is located in a zoning district designated as the Resource Protection District - Industrial, it is likely that the Project road will provide access to industrial uses. The Project road will not be used for storage of vehicles or for any other purpose than to provide access to the Project Tract.
10. The Applicant has not defined any lots or building sites on the Project Tract.
11. The noise from construction of the Project will be mitigated by restricting the construction hours as follows: 7:00 a.m. - 5:00 p.m. Monday through Friday and 8:00 a.m. - 5:00 p.m. on Saturdays.
12. After construction is completed, noise associated with occasional visitor traffic will be infrequent and minimal.
13. A street sign conforming to the Town's requirements will be located at the new intersection of the Project road and Allen Martin Drive. The Applicant may use small, temporary, unilluminated real estate signs to market parcels on the Project Tract.
14. Six 70 watt metal halide luminaire street lights will be spaced at 500 foot intervals along the Project road.
15. All utilities associated with the Project will be located underground.

16. The Applicant will preserve the existing trees located on both the sides of the Project road. The Applicant does not propose any additional landscaping.
17. Appellants Gavin Wright and Timothy D. Green each own property adjoining the Project Tract.
18. A 200 foot wooded buffer ("Buffer") located at the edge of the Project Tract surrounds the Project Tract on three sides. Beyond the Buffer, residential properties surround the Project Tract on three sides.
19. The Buffer adjoins the Appellants' properties.
20. The Appellants' homes are visible from the edge of the Buffer nearest the Project.
21. The Project road is located 350 feet beyond the edge of the Buffer nearest the Project.
22. The Project road is located approximately 550 feet from the boundaries of the Appellants' properties.
23. Very small portions of homes located in the area of the Appellants' homes are visible from the area cleared for the Project road.
24. Permit #4C0329 authorized the Applicant to develop 5 industrial lots on 25 acres of the Saxon Hill Industrial Park and to construct a road in excess of 200 feet for access to such lots.
25. In finding of fact #8 (ii) under the Criterion 8 section of its Findings of Fact, Conclusions of Law, and Order #4C0329, the District Commission stated "A 200' wide buffer zone will be maintained around the circumference of the industrial park for recreation/conservation purposes."
26. In finding of fact #8 (iv) under the Criterion 8 section of its Findings of Fact, Conclusions of Law, and Order #4C0329, the District Commission stated

The applicant has entered into an agreement with William Hall, Chittenden County Forester, to provide for continued forest management of the buffer strip and conservation areas. That agreement, listed as Exhibit 23, shall be incorporated into and made a part of the Land Use Permit. The rights and obligations set forth in the Saxon River Industrial Park Forest Management

Agreement (Exhibit 23), shall extend to any person or persons who shall fill the role or position of the Chittenden County Forester from this date forward.

27. Condition 7 of Permit #4C0329, incorporating the complete text of the Saxon River Industrial Park Forest Management Agreement (“Original Forest Management Plan”), states:

This agreement is being executed to ensure that the former Village of Essex Junction forest located off Sand Hill Road will be maintained as a productive forest along with multiple use benefits under the guidance and supervision of the Chittenden County Forester, (hereafter called the Forester) although its use will be changed in part, to an Industrial Park. After much deliberation both parties agree that this approach is the best way to benefit by as much of the effort that has been expended over many past years in developing what is one of the most intensively managed forests in Vermont and to continue to harvest and manage the undeveloped areas along with the conservation areas as long as it is practically feasible in the judgment of the Forester. The Forester shall have freedom of access, along with students, to continue the use of the undeveloped and conservation areas for educational purposes. The Forester shall on his initiative or at the request of Forestdale Heights, Inc. (or its successors) mark any trees prior to their being removed including any tree removal for building sites, parking areas, streets, etc. The Forester may review all contracts between the logging contractor and the cutting crews and may oversee the cutting operations to ensure that the harvesting is being done under good forestry principals [sic].

By covenant, each property owner will allow the continual management and harvesting of timber in the 200’ buffer strip and conservation areas.

28. The Original Forest Management Plan was in effect from May 28, 1986 until March 4, 1998.
29. On March 4, 1998, a new forest management plan for the Saxon Hill Industrial Park (“New Forest Management Plan”) was executed by the Applicant, Scott Moreau of Greenleaf Consulting, Inc., and Michael Snyder, the Chittenden County Forester.
30. In 1995 and 1996, the Applicant selectively cut trees in the Buffer in accordance with the Original Forest Management Plan.
31. The cutting changed the canopy of the Buffer, allowing more vertical light to

penetrate the Buffer. Increased vertical light causes regeneration of the understory and forest floor. Such regeneration has begun in the Buffer.

32. The Project Tract is located in an area designated as the Resource Protection District - Industrial ("RPD-I") by the Town of Essex Zoning Regulations.

33. Section 16.0 of the Town of Essex Zoning Regulations states:

This district, "RPD-I", is established for land that is comprised of forests, bodies of water, high elevations, scenic overlooks, or similar natural settings. The objective of the "RPD-I" District is to protect all or part of such natural attributes for public enjoyment, and, when it is deemed economically and aesthetically feasible, to carry out development activities in harmony with the natural surroundings.

34. Section 16.1.1 of the Town of Essex Zoning Regulations states:

Development plans for the "RPD-I" District have been submitted for the "RPD-I" in its entirety and all land features therein. At least sixty percent (60%) of the amount of land (75 1.7 acres) shown on the Development Plan for the district shall be retained for recreation/conservation use. Industrial and office uses which satisfy all other requirements of this Section shall be permitted in twenty-five percent (25%) of the amount of land (75 1.7 acres) shown on the Development Plan for the district. The remaining fifteen percent (15%) of the amount of land (75 1.7 acres) shown on the Development Plan for the District shall be retained for recreation/conservation use until and unless the Planning Commission deems it necessary, after public hearing, to allow industrial or office uses in all or part of that portion.

35. Section 16.1.2 of the Town of Essex Zoning Regulations states: "A buffer strip with a minimum width of two-hundred feet (200') shall be provided between industrial development and adjacent residential areas and streets."

36. Section 23.3.1 (G) of the Town of Essex Zoning Regulations states: "The buffer area shall be provided with dense plantings, decorative fencing and/or natural land forms which will provide a year round visual screen between the non-residential use and the residential districts."

37. Section 23.3.1 (L) of the Town of Essex Zoning Regulations states: "In the RPD-I District, within the required buffer area, all existing trees and other vegetation shall

be preserved except that an area not more than twenty feet (20') on each side of the required driveways may be cleared and maintained in grass or other low plants which do not obstruct the lines of vision to and from the driveway."

38. Finding of fact 16 in the District Commission's Findings of Fact, Conclusions of Law, and Order #4C0329-17 states:

Future development and construction of buildings along the proposed roadway will require review and approval by the District Commission. No development will be permitted within the 200 foot buffer area. The only permissible activity within the buffer is the continued tree harvesting performed in accordance with the Forest Management Plan approved by the Chittenden County Forester.

39. The New Forest Management Plan contains the following management objective for the Buffer: "[c]ontinued regeneration through the Shelter-wood System."

40. The New Forest Management Plan contains the following silvicultural prescription for the Buffer:

Current regeneration should be allowed to develop naturally for approximately 10 years. At that time the first of 4 over story removals, completed at 10 year intervals, should be completed. Each of the first 3 entries should strive to harvest one-third to one-half of the over story, retaining an even distribution of healthy dominants within the stand. The fourth and final entry should harvest the remaining over story, releasing a well established pole to small sawtimber stand of mixed hardwood and pine and hemlock. The third and fourth harvests may be delayed if the mid-story is not sufficiently developed to allow the post harvest stand to be of B-level stocking.

41. According to good silvicultural practices, there will never be fewer trees in the Buffer than exist in the Buffer currently.

42. The objective of both the Original Forest Management Plan and the New Forest Management Plan is sustainable production of timber. It is possible to set up a Forest Management Plan with a visual screening objective.

V. CONCLUSIONS OF LAW

A. Jurisdictional Statement

The Project constitutes a substantial and material change in a permitted project and therefore requires a permit amendment pursuant to EBR 34(A). Additionally, the Project requires a permit because it constitutes “development” pursuant to 10 V.S.A. § 6001(3) and EBR 2(A)(2).

B. Motion to Dismiss

As a preliminary matter, the parties presented oral argument on the Motion to Dismiss at the beginning of the hearing. Subsequently, the Panel deliberated and ruled on the Motion. Because it denied the Motion to Dismiss, the Panel reconvened the hearing to consider the substantive issue raised by the Appellants.

The Board may consider dismissal of any matter before it for reasons provided for by the EBRs, by statute, or by law. EBR 18(D). A decision to dismiss shall include a statement of findings of fact and conclusions of law and shall be made within 20 days of the final hearing at which dismissal is considered. *Id.*

The Applicant contends that the Appellants have failed to raise and identify issues ripe for appeal under 10 V.S.A. § 6086(a)(8) (“Criterion 8”). He further contends that the Appellants have not established a nexus between the Project and the tree cutting in the Buffer in a **Criterion 8** context.

The Appellants contend that they established a nexus between the Project and the tree cutting in the Buffer in their Petition for Party Status. The Appellants point to the Board’s Memorandum of Decision in this case, issued on September 23, 1998, as proof of such a nexus. The Board’s Memorandum of Decision states, in part:

The Appellants are both adjoining property owners. In their Petition for Party Status, the Appellants state that the Project may affect their interests under Criterion 8 (aesthetics) based on the noise and lights generated by traffic on the Project. The Appellants claim they can see lights from and hear traffic on Allen Martin Drive even though virtually all of the land between their backyards and Allen Martin Drive is forested. Because the Project will be located between the Appellants’ properties and Allen Martin Drive, the Appellants further claim that the lights and sounds of **traffic on the** Project may have direct effects on their properties. The **Applicant** argues that the Appellants have failed to establish party status under Criterion 8. The

Board concludes that the Appellants have demonstrated that the Project may have direct effects on their properties under Criterion 8 (aesthetics). 10 V.S.A. § 6086(a)(S). Based on the above, the Appellants are granted party status under Criterion 8 (aesthetics) pursuant to EBR 14(A)(5).

Re: Hector LeClair d/b/a Forestdale Heights, Inc., #4C0329-17-EB, Memorandum of Decision at 3-4 (Sept. 23, 1998) [EB #711]. The Panel concludes that the Appellants have demonstrated a sufficient nexus between the Project and the tree cutting in the Buffer in a Criterion 8 context. Therefore, the Panel denies the Applicant's Motion to Dismiss and considers the substantive issue on appeal.

C. Criterion 8 (Aesthetics)

10 V.S.A. § 6081(a) provides that no person shall commence construction on a development or commence development without a permit. 10 V.S.A. § 6081(a).

Before granting a permit, the Board must find that the Project will not have an undue adverse effect on the scenic or natural beauty and aesthetics of the area. 10 V.S.A. § 6086(a)(8) (aesthetics). The burden of proof is on the Appellants under Criterion 8, id. § 6088(b), but the Applicant must provide sufficient information for the Board to make affirmative findings.¹ See, e.g., Re: Black River Valley Rod & Gun Club, Inc., #2S1019-EB, Findings of Fact, Conclusions of Law, and Order (Altered) at 19 (June 12, 1997) [EB #651R] and cases cited therein. The Board is free to consider all evidence, regardless of which party introduced it, in determining whether a particular issue has been proved. Re: Okemo Mountain, Inc., #2S035 1-12A-EB, Findings of Fact, Conclusions of Law, and Order at 18 (July 23, 1992).

The Board uses a two-part test to determine whether a project satisfies Criterion 8. First, it determines whether the project will have an adverse effect. Re: James E. Hand and John R. Hand, d/b/a Hand Motors and East Dorset Partnership, #8B0444-6-EB (Revised),

¹The term "burden of proof" refers to two separate burdens: the burden of going forward and producing evidence, and the burden of persuasion. See 10 V.S.A. § 6088; In re Denio, 158 Vt. 230,236 (1992); Re: Pratt's Propane, #3R0486-EB, Findings of Fact, Conclusions of Law, and Order at 4-5 (Jan. 27, 1987). 10 V.S.A. § 6088 operates in conjunction with the requirement that before a permit can be issued, the Board (or district commissions) must make the affirmative findings required under the 10 criteria. See 10 V.S.A. § 6086(a). The Applicant has the burden of production with respect to all ten criteria. The Appellants bear the burden of persuasion with respect to Criterion 8.

Findings of Fact, Conclusions of Law, and Order at 24 (Aug. 19, 1996) [EB #629R]; Re: Quechee Lakes Corn., #3 W0411-EB and #3 W0439-EB, Findings of Fact, Conclusions of Law, and Order at 17-20 (Nov. 4, 1985) [EB #254]. Second, it determines whether the adverse effect, if any, is undue. Hand. supra, at 24; Quechee Lakes, supra, at 17-20.

1. Adverse Effect

Under the first inquiry,

the Board looks to whether a proposed project will be in harmony with its surroundings or, in other words, whether it will “fit” the context within which it will be located. In making this evaluation, the Board examines a number of specific factors including the nature of the project’s surroundings, the compatibility of the project’s design with those surroundings, the suitability for the project’s context of the colors and materials selected for the project, the locations from which the project can be viewed, and the potential impact of the project on open space.

Hand. supra, at 25.

The Project is in harmony with its surroundings. The Project is located in Saxon Hill Industrial Park along with several industrial and office buildings, including IBM. The Project road intersects with Allen Martin Drive, the road that provides access to the Saxon Hill Industrial Park. The Allen Martin Drive area is a suburban setting with a mixture of industrial, office and residential uses.

The Buffer effectively screens the Project from the Appellants’ view. The Appellants each own property adjoining the Project Tract and the Buffer. The Project road is located approximately 550 feet from the Appellants’ residences. Only very small portions of homes located in the area of the Appellants’ homes are visible from the area cleared for the Project road.

The Board concludes that the Project “fits” the context within which it will be located. The Project is not out of character with its suburban surroundings. Additionally, the Project is effectively screened from the Appellants’ view by the Buffer. Criterion 8 “was not intended to prevent all change to the landscape of Vermont or to guarantee that the view a person sees from his or her property will remain the same forever.” Re: George, Marv and Rene Boissoneault, #6F0499-EB, Findings of Fact, Conclusions of Law, and Order at 19 (Jan. 29, 1998) [EB #678] (quoting Re: Okemo Mountain, Inc., #2S0351-8-EB, Findings of Fact, Conclusions of Law, and Order at 9 (Dec. 18, 1986) [EB#305]). The Board concludes

that the Project will not have an adverse effect under Criterion 8.² Because the Board concludes that the Project is not adverse under the first inquiry, it is unnecessary for the Board to proceed to the second inquiry and evaluate whether the adverse effect is “undue.”

The Appellants argue that the application should be denied because the Project will facilitate other growth activities and the Applicant has failed to provide information regarding its overall plan for development of the Project Tract. The Applicants cite Re: Bruce Levinsky, Declaratory Ruling #157, Findings of Fact, Conclusions of Law, and Order (Aug. 8, 1984), Re: Killington Ltd., #1R0525-EB and #1R0530-EB, Findings of Fact, Conclusions of Law, and Order (Dec. 4, 1986) [EB #283], and Re: Washington Electric Cooperative, Inc., Findings of Fact, Conclusions of Law, and Order (Dec. 19, 1990) [EB #455] as cases supporting their argument.

In Levinsky, the applicant proposed construction of a 4,616 foot sewer line extension. Levinsky, supra at 2. The Board concluded that the application was not complete because it failed to provide a further description of the project to be served by the sewer line. Id. at 6. In Killington, the applicant proposed construction of chair lifts, ski trails, and snowmaking/firefighting equipment. Killington, supra at 4. The Board concluded that such construction was not part of an integrated growth plan and did not necessarily facilitate other growth activities. Therefore, the Board did not require the applicant to submit an overall development plan. Id. at 13. Nevertheless, the Board also concluded that it would have been compelled, under the principles of Levinsky, to examine an overall plan for development if the proposed construction was one component of an integrated growth plan. Id. In Washington Electric, the applicant proposed construction of an electric distribution utility line along a town highway. Washington Electric, supra at 2. Board concluded that the applicant failed to sustain its burden of proof under Criteria 9(B)-(L) and 10 because the applicant did not address whether the utility line would cause further development along its length and the potential environmental and fiscal consequences of further development. Id. at 9.

²The Board’s conclusion that the Project is not adverse is based specifically on the effective screening provided by the Buffer for this Project. Further development of the Project Tract may alter significantly the aesthetic analysis. Additionally, any further cutting in the Buffer may reduce its screening ability and, therefore, impact the Applicant’s ability to receive Act 250 approval for further development of the Project Tract. Finally, sections 16.1.2 and 23.3.1 (L) of the Town of Essex Zoning Regulations require a two hundred foot buffer between industrial development and adjacent residential areas and preservation of all existing trees and other vegetation within the buffer.

The Project at issue differs from the Levinsky and Washington Electric cases in that the Project Tract is located in a previously permitted industrial park for which there are defined expectations and limitations for future growth. Because this case involves an amendment to the permit that authorizes the Saxon Hill Industrial Park, it will not necessarily facilitate growth beyond previously anticipated and permitted growth. Additionally, the Project Tract is surrounded on three sides by the Buffer and residential properties. Therefore, an extension of the Project road is highly unlikely. Finally, Criterion 8 is the sole criterion at issue in this case whereas the Washington Electric case involved numerous Act 250 criteria that address the impacts of growth and protection of natural resources.³ Based on these differences and its conclusion above that the Project will not have an adverse effect under Criterion 8, the Board concludes that an overall plan for development of the Project Tract is not necessary for the Board to find that the Project, a road and associated utilities, complies with Criterion 8.

While the Applicant has no concrete plans to subdivide or construct buildings on the Project Tract, it is reasonable to conclude that such development is likely to occur. Future development along the Project road will require a Permit amendment if it is a substantial or material change to the permitted Project. EBR 34(A). If the Applicant constructs the Project, he does so at his own risk because by granting Land Use Permit #4C329-17-EB, there is no assurance that future development will be permitted.

Based on the above, the Board concludes that the Project complies with Criterion 8.

³The criteria before the Board in Washington Electric were: 7, 8, 9(A), 9(B), 9(C), 9(D), 9(E), 9(F), 9(G), 9(H), 9(J), 9(K), and 10. Because Levinsky was a declaratory ruling, not a permit application, there were no Act 250 criteria before the Board.

VI. ORDER

1. Application #4C0329-17-EB complies with 10 V.S.A. § 6086(a)(8).
2. Land Use Permit #4C0329-17-EB is hereby issued.
3. Jurisdiction is returned to the District #4 Environmental Commission.

Dated at Montpelier, Vermont this 25th day of February, 1999.

ENVIRONMENTAL BOARD⁴


Marcy Harding, Chair

Arthur Gibb

George Holland

Samuel Lloyd

William Martinez

Rebecca Nawrath

Alice Olenick, Esq.

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⁴Alternate Board Member Jack Drake participated in the deliberations on the proposed decision in this matter and reviewed the final decision. He was not available to participate in the final deliberation.